

Serial No. 10/633,938

REMARKS

Initially, Applicants express their appreciation to Examiners L. Thanh and T. M. Nguyen for the courtesies extended to one of them (Thomas E. Lach) and their undersigned attorney during a personal interview held on April 10, 2008. The present amendment sets forth and accords with the substance and results of that interview. See also the Office communication of April 16, 2008.

In the January 28, 2008, Office action, Claims 128 to 134, 145 to 156, 171 to 182, 198 to 209, 212, and 228 to 239 received examination. With the indicated amendments, Applicants retain them here for further examination.

A. Oath or Declaration

As required in the January 28, 2008, Office action, Applicants submit a new declaration. This should serve to satisfy the requirement set forth in the Office action.

B. Drawings

The drawings were objected to under 37 C.F.R. § 1.83(a) for not showing all of the features of the claimed invention. Applicants respectfully traverse this objection..

At the April 10, 2008, interview mentioned above, Applicants' undersigned counsel made two points concerning the drawings and their contents. First, he pointed out that the claims under examination were generic to *both Figures 8 and 9¹*. In fact, the Office made an objection to the drawings in the Office action of May 15, 2006, also based on the same rule section of 37 C.F.R. § 1.83(a).

¹ The claims are also generic to Figure 7 as discussed below.

Serial No. 10/633,938

At a personal interview held on October 20, 2006, with Examiners D. DeMille and T. M. Nguyen, Applicants showed their amendment subsequently submitted to the United States Patent and Trademark Office on November 15, 2006. That amendment overcame the objection under 37 C.F.R. § 1.83(a) by adding features taught in the specification to *Figure 8* along with nine words to the specification. Both examiners approved the proposed amendments at the October 20, 2006, interview, and the objection to the drawings was not restated in the subsequent Office action of April 11, 2007.

Clearly Figures 7, 8, and 9 are encompassed within the parameters of the claims under examination. The examiners raised the issue at the April 10, 2008, interview of the actual species elected in Applicants' response of February 24, 2006. Applicant and his attorney agreed that the species of Figure 9 was specifically selected. However, the species selection requirement proved artificial because all of Figures 7, 8, and 9² meet the requirements of the elected *claims*. Further, the examination process focuses on claims and not drawing figures. Reiterating what was stated above, the claims under examination are generic to all of Figures 7, 8, and 9. Since most of the stated elements appear in Figure 8 and others in Figures 7 and 9, these drawing together serve to satisfy the requirements of 37 C.F.R. § 1.83(a).

To the extent that the election of species requirement mandates an election between three species covered by a generic claim, that requirement is artificial. The restriction of January 24, 2006, contained two such artificial requirements. The first consisted of the presumed, but nonexistent, dichotomy between Figures 7, 8, and 9. All show different concepts for implementing the invention covered by the claims currently under examination.

² Only Figures 8 and 9 were discussed at the April 10, 2008, interview.

Serial No. 10/633,938

The second artificial separation in the January 24, 2006, requirement concerns the species of Figures 16 and 17. In fact, the election requirement did not even mention Figures 13 to 15. A careful study of the application will show that the embodiment of Figures 13 to 15 contains the major features under discussion there. These include the pin 432, the openings 452, 454, and 456, and the shoulders 440, 442, 444, 446, 448, and 450. These limit the travel of the handles 416 and 418. Significantly, Figures 15 and 16 show a belt with ends that surrounds the patient and fastens to the device. To the extent that the Figure 17 does not show this, clearly, Figures 15 and 16 do. Thus, other figures, not falling within the artificial species election scheme can and do provide the required illustration of claimed features. The rules require no more.

Secondly, Applicants, at the interview of April 10, 2008, pointed out the equivalence of the embodiments shown in the various figures. In fact, the specification, as filed, referred to the equivalence of the embodiments. In fact, the word "equivalent" appears in the specification no less than 12 times. Thus, common features of one drawing figure may and should be immediately applied to the other figures.

Thus, "first and second opposite extremities" of the belt appear in Figures 7 and 8 as well as in Figures 1, 2, 6, 11, 12, 13, 14, 15, 16, and 17. The "contact with a substantial majority of a patient's torso (now "contact with a major portion of the circumference of said chest") appears in Figures 1, 2, 9, 10, 13, and 16. "The "continuous contact" of the belt with the patient's "front, sides and a portion of the back" appears in Figures 1, 2, 9, 10, 13, 15, and 16.

The stated requirement of showing in a figure the "fastening" of the power unit to the belt, and the "fastening to an apparatus any of said extremities of said belt no[t] already

Serial No. 10/633,938

fastened to said apparatus” actually are requiring Applicants to illustrate a step in a *method*. The results of the method are shown in Figures 1, 2, 5, 6, 7, 8, 9, 11, 12, 13, 15, 16, and 17. The “powered belt tightener coupled to said belt extremities” appears in Figures 7 and 8 (to which the claims under examination are generic). The “first and second electrodes” appear in Figure 16. “The various types of motors” appear in Figures 7 and 8. In particular, Figure 7 shows an electric motor, while Figure 8 discloses a fluid motor where the fluid may take the form of a gas (pneumatic) or liquid (hydraulic). Obviously, these particular features are standard and may be shown diagrammatically.

The above discussion shows that the drawings do present all of the claimed features as required by the rules. Thus, the objection to the drawings should be withdrawn. This action is respectfully requested.

C. *Specification*

The specification was objected to under 35 U.S.C. § 132(a) on the basis that the July 11, 2007, Amendment introduced new matter into the disclosure. In making the objection, the Office action stated:

The added material which is not supported by the original disclosure is as follows: substantially subsection (A) of each of the independent claims. In particular, wrapping a belt around and “in contact with a substantial majority of a patient’s torso, said belt being in continuous contact with the patient’s torso, including the front, sides and a portion of the back of said patient’s torso.”

Applicants respectfully traverse this objection.

Initially, Applicants recount the process by which the objected language found its way into the application. In the April 11, 2007, Office action, all of the then pending claims

Serial No. 10/633,938

were rejected under 35 U.S.C. § 102 or § 103 over the prior art of Lach et al. (U.S. patent 4,770,164) taken either alone or in combination with Barkalow et al. (U.S. patent 4,273,114)

In an effort to resolve all of the then pending issues, Applicants' undersigned attorney scheduled an interview for himself and one of the applicants (Thomas Lach) with Examiner Tam Nguyen and a primary examiner for July 6, 2007. Mr. Lach traveled to the Patent and Trademark Office in Alexandria, Virginia, from his home in Columbus, Ohio, while the undersigned traveled from Highland Park, Illinois.

Upon arriving for the interview on July 6, 2007, Mr. Lach and the undersigned were met by Examiner Nguyen. Examiner Nguyen informed these two persons appearing for Applicants that no primary examiner was available for the interview. Notwithstanding this, he would still conduct the interview. Naturally, having traveled to Alexandria, Mr. Lach and the undersigned agreed to proceed in an effort to resolve the outstanding issues in the application.

During the course of the interview with Examiner Nguyen on July 6, 2007, the discussion first centered on the fairly apparent differences between the device shown in the Lach et al. patent and the invention disclosed in the present application. The major distinction between the cited patent and the application involved the band guides 16 and 18 shown in the Lach et al. patent. While the patent espoused the view that the band guides were essential, the present applicants contend that the band guides actually interfere with their significantly improved CPR method and apparatus. The main focus at the interview, however, sought to arrive at language that served to distinguish the present claims from the Lach et al. patent and yet still had a suitable basis in the specification as originally filed.

Serial No. 10/633,938

As a starting point for the discussion concerning the claim language, the participants in the interview reviewed the PROPOSED AMENDMENT TO ACTIVE CLAIMS (As examined in the April 11, 2007, Office action) which Applicants' attorney had faxed to the Patent and Trademark Office on July 5, 2007, in preparation for the interview. After an extensive discussion in which Examiner Nguyen participated fully and helpfully, the persons at the interview agreed upon claim language which Applicants placed in their July 11, 2007, AMENDMENT. As suggested above, the amendments to the claims set forth in this paper specifically included the suggestions made by Examiner Nguyen at the interview.

Naturally, Applicants' undersigned attorney understood the fact that Examiner Nguyen, not being a primary examiner, could not give final approval to the proposed language. Further, even if the language received official Patent and Trademark Office approval, a further search of the prior art would have to be undertaken to make sure of the patentability of the claims as amended.

As the next required step in the procedure, Applicants submitted their July 11, 2007, Amendment. That paper incorporated the language changes agreed upon at the July 6, 2007, interview. It also traversed, with appropriate discussion, the prior-art rejections.

Subsequently, the Patent and Trademark Office issued its August 6, 2007, Office action. That paper was signed by both Examiner Nguyen and Primary Examiner Lori Anderson. That paper effectively took two separate actions. The first, and most important, it confirmed the correctness of the language agreed upon by Examiner Nguyen and the undersigned attorney at the July 6, 2007, interview. It did so by removing all outstanding rejections of the claims under 35 U.S.C. § 112 and imposing no further objections or

Serial No. 10/633,938

rejections of the claims, specification, or drawings based on formal reasons or original disclosure. The signature of Primary Examiner Lori Anderson supported this action.

The August 6, 2007, Office action, as its second effort, rejected the claims under either 35 U.S.C. § 102 or § 103 over a sheet drawn by a Mr. Szpur. Applicants had themselves brought this matter to the attention of the Patent and Trademark Office on April 6, 1998, in their U.S. patent application serial no. 573,465 which later issued into U.S. Patent 5,738,637. The present application claims continuity from this earlier application.

The undersigned attorney had brought the Szpur paper to the attention of the Patent and Trademark Office because the earlier application had displayed a device in Figure 10 based on Mr. Szpur's drawing. However, the application did not carry any indication that this drawing was the creation of a person who was not an inventor in that application. In fact, the undersigned attorney, working with Supervisory Primary Examiner, Mr. Appley, had tried to have the application withdrawn from issuance so that the effect of the origin of Figure 10 with Mr. Szpur on the patentability of Applicants' invention could receive full consideration by the Patent and Trademark Office. This effort to withdraw this earlier application from issuance did not succeed. However, all of the numerous subsequent applications that claim priority from this early application do clearly disclose that Figure 10 is the "INVENTION OF ANOTHER." The written specification also carries a statement to this effect.

As stated above, the August 6, 2007, Office action rejected the claims of the present application over the Szpur disclosure. This Office action contained no other rejection of or objection to the application.

Serial No. 10/633,938

Applicants then filed their October 15, 2007³, Response to the August 6, 2007, Office action. It basically stated that, under the law, the Szpur sheet did not constitute prior art citable against their application under 35 U.S.C. § 102 or § 103.

The Patent and Trademark Office then issued the November 8, 2007, (*fourth*) Office action. This Office action proved stunning to Applicants and their undersigned counsel in numerous ways. First, it was marked "FINAL" even though it raised issues never before even hinted at in any prior Office action and not "necessitated by an amendment of the claims." In fact, this Office action constituted the *third* time that the Patent and Trademark Office had made an Office action "final."

Second, after removing the Szpur paper discussed above as a reference, the fourth Office action made, by the undersigned's count, 24 separate objections and rejections, obviously not set forth in the prior Office action June 25, 2008⁴. No reason has been provided as to why these objections and rejections had not been made much earlier in the examination process of the subject application that had been filed *over four years earlier*.

Third, the very language that had been agreed upon between Examiner Nguyen and the undersigned at the interview held on July 6, 2007, was now objected to and used to reject the claims under 35 U.S.C. § 112. This had proved particularly disturbing in light of the fact the Office action of August 8, 2007, issued after the interview and after the incorporation of the cited language had raised no objection to it or rejection based on it. And, as stated above, that Office action had been signed by the primary examiner, Lori Anderson.

³ The November 8, 2007, Office action incorrectly gives the date of this Response of Applicants as October 12, 2007.

⁴ Several of these may appear under the same heading or even the same paragraph. Thus, for example, paragraph 3 under the section title of "Drawings" actually contains four separate objections to the drawings.

Serial No. 10/633,938

Fourth, the fourth Office action objected to specific (or very similar) language ("fastening to an apparatus any of said extremities of said belt not already fastened to said apparatus") that had appeared in the claims of the original application (serial no. 573,465) and found its way into at least three patents based ultimately on this application, specifically U.S. patents 5,738,637; 6,234,984; and 6,325,771. What was completely acceptable before has now become objectionable. Obviously, all of this has created concern both for its impact upon the present application and for its implication for the issued patents.

Fifth, Figure 8 was amended in Applicants' first Amendment submitted on November 15, 2006, to show diagrammatically items discussed in the specification in connection with this figure. The amendment also added generalizing language related to features shown in the drawing. All of this had been discussed in an interview held on October 20, 2006, with Examiner Nguyen, Primary Examiner D. DeMille, Mr. Thomas Lach, and the undersigned. All of the minor amendments had been approved by everyone in attendance. They had then been incorporated into the Amendment filed November 15, 2006, and accepted without any adverse comment in any of the subsequent Office actions. The claims under discussion in the fourth Office action are generic to Figure 8 as well as Figures 7 and 9. Yet, the most recent Office actions treats this figure as nonexistent, notwithstanding the prior discussion, minor amendment, and Office actions not objecting to this figure as presently shown.

All of the above caused the undersigned attorney, on December 4, 2007, to place a telephone call to Group Director Fred Schmidt, who has responsibility for Group 3764 which is handling the present application. When the attorney actually spoke with Mr. Schmidt shortly afterwards, a portion of the foregoing was discussed. Among other matters

Serial No. 10/633,938

were the facts of two interviews and three *final* Office actions. Mr. Schmidt indicated that he would ask the supervisor of Group 3764, Ms. LoAnn Thanh, to call the undersigned attorney.

Ms. Thanh did, in fact, telephone the undersigned attorney shortly afterwards. She indicated that the then active fourth Office action would be withdrawn and a new Office action issued. Specifically, the forthcoming Office action (the fifth in the present application) would not be a final action. This fifth Office action did issue on January 28, 2008, and is the paper to which this Amendment responds.

The January 28, 2008, Office action made various objections and rejections that accorded with the fourth Office action of November 8, 2007. However, it does display various differences.

First, it imposed, for the first time in the present application, a requirement for a new oath or declaration, discussed above. The prior oath or declaration had stated that the inventors had disclosed all information material to the examination of the application. The new requirement insisted on the word, "patentability" instead of "examination." As stated above, a new oath or declaration is submitted that complies with this requirement.

Second, it removed the restriction requirement against claims 130 to 134, 147 to 151, 173 to 177, 200 to 204, and 228 to 239. The Office action stated:

4. The restriction of the last Office Action dated November 8, 2007, withdrawing claims 130-134, 1437-151, 173-177, 200-204 and 228-239 is withdrawn. Since these claims have previously been examined on the merits, the claims are rejoined for prosecution even though they correspond to non-elected Species J, Figure 16.

Serial No. 10/633,938

Obviously, Applicants are pleased at the removal of the restriction requirement inserted for the first time in the fourth Office action. However, raising this matter again shows the artificiality of the current analysis of the present application by the Patent and Trademark Office. The defibrillation of Claim 130, for example, works immediately with any of the devices shown in any of the figures other than Figure 16. First, Figures 13 to 15 and 17 show the same device as Figure 16 and come under the same description in the specification. Second, attaching the appropriate pads 504 to any of the other figures is automatic and requires absolutely no inventiveness after seeing Figure 16. In particular, attaching them to either Figure 8 or Figure 9 proceeds in the same fashion. Accordingly, examining these claims here is appropriate, and Applicants agree with the action doing so. However, as discussed above and below, other objections stand on the same shaky foundation as the restriction requirement between Figure 16 and the other figures concerning defibrillation and should also be withdrawn.

Second, the fifth Office action made clear the ultimate objective of both it and the prior fourth Office action. The fourth action stated:

In particular, the independent claims were amended to obviate the Lach '164 reference as discussed in the July 6, 2007 interview; however, the amendment included language that constitute (sic) new matter as discussed below. (Page 2, item 2.)

The succeeding fifth Office action, replacing the fourth Office action, made the point even clearer. It stated:

In particular, the independent claims were amended to obviate the Lach '164 reference as discussed in the July 6, 2007 interview; however, the amendment included language that constitute (sic) new matter as discussed below. Note, when the claim language that includes the new matter is removed, the

Serial No. 10/633,938

Lach '164 reference will be applied to reject the claims unless there are other limitations or amendments that would obviate the Lach '164 Reference (sic). (Page 2, item 4.)

Clearly, these Office actions have the stated intent of refusing to allow the issuance of the present application into a patent rather than find common ground for doing just that. Even incorporating the language that Examiner Nguyen had help work out at the July 6, 2007, interview, incorporated into the July 11, 2007, Amendment, and approved in the August 6, 2007, Office action has proven fruitless. Applicants submit that proper course at this time is for the Patent and Trademark Office and Applicants to find proper, well based language that reflects and is based on the actual disclosure and distinguishes over the prior art. In fact, Applicants believe that the above amendments to the claims achieve this very purpose.

In particular, when making the objection to the disclosure, the examiner stated:

The added material which is not supported by the original disclosure is as follows: substantially subsection (A) of each of the independent claims. In particular, wrapping a belt around and "in continuous contact with the patient's torso, including the front, sides and a portion of the back of said patient's torso." (Page 4, item 4.)

Initially, the word "torso" actually suggested by Examiner Nguyen at the July 6, 2007, interview, has been changed back to "chest" at the suggestion of Examiner Thanh at the April 10, 2008, interview. Applicants agree that the word "chest" more accurately and specifically set forth the invention.

Further, the drawings form part of the specification, as originally filed. Accordingly, one basis for the language appears in Figures 1, 2, 9, 10, 11, 13, 14, 16, 16, and 17. The specification also describes this feature in the language which span page 16, line 12, to page 17, line 6. This language states:

Serial No. 10/633,938

The belt 40, which extends around the front, sides and back of the chest, is substantially inelastic and flexible. A plurality of indicial is imprinted on the exposed surface of the belt 50. The belt 40 attaches to the strut 34 on one side of the chest 12, and extends around a major portion of the circumference of the chest 12 to attach to the other strut 36. When the assemblies 16 and 128 pivot around the pivot pin 20, the belt 40 is tightened by the struts 34 and 36 to which the belt 40 attaches.

Although the belt 40 is described as extending around the front, sides and back of the chest, the belt may be made up of two or more component parts, such as a pair of belts. This pair of belts could extend from attachment to the struts 34 and 36, extending downwardly past the sides of the patient's chest to rigid attachment to a board which spans the width of the back of the chest. Therefore, "a belt wrapped around the chest" can be made up of two or more belt components which extend around portions of the chest circumference in combination with other rigid or flexible components.

Thus, the belt can be made up of one piece or several pieces. In any event, it has a full description in the specification as well as illustrations in the drawings. Accordingly, the objection to the specification should be withdrawn.

D. Claim Rejections – 35 U.S.C. § 112

Claims 145 to 156 and 210 to 212 were rejected under 35 U.S.C. § 112, first paragraph. In making this rejection, the examiner stated:

Claims 128-134, 145-156, 171-182, 198-209, 212 and 228-239 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, the following limitation disclosed substantially in subsection (A) of each of the independent claims cited above was not described in the specification: wrapping a belt around and "in contact with a substantial majority of a patient's torso,

Serial No. 10/633,938

said belt being in continuous contact with the patient's torso, including the front, sides and a portion of the back of said patient's torso." Claims 131, 132, 148, 149, 174, 175, 201, 202, 228, and 232 are also rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The specification does not disclose a means for detecting when the belt means (sic) has placed a patient's chest under compression nor the inducement of a defibrillating electric current to the patient's chest at that time. Additionally, the specification does not disclose a means for detecting when the belt means (sic) has placed a patient's chest under maximal compression nor the inducement of a defibrillating electric current the patient's chest.

* * * * *

Claims 128-134, 145-156, 171-182, 198-209, 212, and 228-239 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 129, it is not clear what is meant by the phrase, "first and second states". In claims 128 and 171, it is not readily apparent how the belt is moved in a direction to tighten the belt around the patient's chest. In claims 145 and 198, it is not readily apparent how the belt extremities are moved in directions to tighten the belt.

In Claim 228, it is not readily apparent how the belt is moved in a direction to tighten the belt around a patient's chest. The elected species shown in figure 9 merely suggests a cable (256) connecting a power unit (254) to a belt (258). Claim 128 recites the limitation "said patient's chest in lines 7 and 11. There is insufficient antecedent basis for this limitation in the claim. The limitation having insufficient antecedent basis is also found in each independent claim. Claims 129-134, 146-156, 171-182, 199-209, 212 and 229-239 are rejected for being dependent on rejected base claims.

Applicants respectfully traverse these rejections.

The first rejection above, being repetitious, says:

The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Serial No. 10/633,938

In particular, the following limitation disclosed substantially in subsection (A) of each of the independent claims cited above was not describe in the specification: wrapping a belt around and "in contact with a substantial majority of a patient's torso, said belt being in continuous contact with the patient's torso, including the front, sides and a portion of the back of said patient's torso."

Although included under the section of the fifth Office action entitled "Claim Rejections - 35 U.S.C. § 112," it actually constitutes a rejection of the specification. Essentially, this rejection is maintaining that a skilled artisan (under 35 U.S.C. § 112, not the *ordinarily* skilled artisan of 35 U.S.C. § 103) cannot figure out, based on the present disclosure and all of his or her background, how to "[wrap] a belt around and 'in contact with a substantial majority of a patient's torso (now "chest") said belt being in continuous contact with the patient's torso (now "chest") including the front, sides, and a portion of the back of said patient's torso (now "chest"). All this simple step requires, in effect, is the wrapping of a belt around a body part. Figures 1, 2, 9, 10, 13, 15, and 16 show no less. Many of the references cited by Applicants and the examiner also show this very simple step. A skilled artisan in the field of designing medical implements cannot possibly have any difficulty in accomplishing this simple operation. As a result, the rejection of the specification on this basis should be withdrawn.

The second portion of the above rejection states:

The specification does not disclose a means for detecting when the belt means (sic) has placed a patient's chest under compression nor the inducement of a defibrillating electric current to the patient's chest at that time. Additionally, the specification does not disclose a means for detecting when the belt means has placed a patient's chest under maximal compression nor the inducement of a defibrillating electric current to the patient's chest.

Serial No. 10/633,938

These features concerning defibrillation constitute standard techniques in the art of resuscitating patients suffering from cardiac arrest. The law does not require Applicants to write a compendium on this well-known subject. As examples, Applicants attach just two references thoroughly discussing CPR. These are (1) *Standards for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiac Care (ECC)*, Supplement to the Journal of the American Medical Society, Vol. 227, No. 7, page 830 (1974), and (2) *Transthoracic Resistance in Human Defibrillation, Influence of Body Weight, Chest Size, Serial Shocks, Paddle Size and Paddle Contact Pressure* by R.E. Kerber, J. Grayzel, R. Hoyt, M. Marcus, and J. Kennedy in *Circulation*, Journal of the American Heart Association, 1981; 63; 676-682. Significantly, both articles were published years before the filing of the grandparent of the present application on December 15, 1995. Further, both include long lists of references related to the same subject matter. As indicated by its title, the latter article discusses defibrillation as a function of chest size and paddle pressure. Increasing the latter increases the effectiveness of defibrillation. That is the point under discussion in the cited claims. Since this information and technique were well known prior to the filing of the application to which the present application claims continuity, these features were well known to those skilled in the art. Not including an extensive treatment in the present application does not result in any lack of enablement. Moreover, the present Office action states, on page 7 (and repeated on page 8):

Barkalow [et al., U.S. patent 4,273,114] discloses an apparatus and inherently a method of performing CPR that includes defibrillating the chest of a patient undergoing resuscitation, detecting when the belt has placed the patient's chest under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces

Serial No. 10/633,938

are contacted with first and second electrodes (48, 75) (see Fig. 6, Abstract & Col. 8, lines 13-45).

Thus, one of the current references teaches this aspect, *only*, of the subject matter under review. Accordingly, the rejection based on nonenablement of defibrillation and the related aspects contained in the claims should be removed.

The third portion of the last rejection given above states:

In claim 129, it is not clear what is meant by the phrase, "first and second states". In claims 128 and 171, it is not readily apparent how the belt is moved in a direction to tighten the belt around the patient's chest. In claims 145 and 198, it is not readily apparent how the belt extremities are moved in directions to tighten the belt.

In Claim 228, it is not readily apparent how the belt is moved in a direction to tighten the belt around a patient's chest. The elected species shown in figure 9 merely suggests a cable (256) connecting a power unit (254) to a belt (258).

Initially, the concept of a power unit having the two states of "on" and "off" or "forward" and "reverse" cannot possibly be so new as to be unclear. This, of course, appears in Figure 7, to which the present claims are also generic, as well as in Figures 8 and 9. Figure 7 has the actuator as do Figures 8 and 9. No question can exist but that the specification teaches the device of the claims with an actuator having first and second states, i.e., "on and "off." Accordingly, this rejection of these claims should be removed.

Further, the belt and the belt ends are moved in a manner to tighten the belt about the patient's chest. That simply means pulling the ends together or at least in the directions that tighten it as a person does in tightening a belt to hold up his or her pants. This is the case in Figures 7 and 8. In Figure 9, the same task is accomplished by rotating the cable 256, attached to the belt 258, to take up slack in the belt 258 and tighten it, much like a fishing

Serial No. 10/633,938

reel. This suggestion appear on page 31, lines 3 to 8, of the specification. No lack of enablement appears in the cited sections of the claims.

Lastly, the rejection questioned the antecedent basis for the verbiage "said patient's chest" in the claims. As discussed above, Examiner Thanh, in the April 10, 2008, interview, suggested changing "torso" back to "chest." Applicants agree with this suggestion and have effected it in the claims. This amending of the claims obviates this rejection.

E. Claim Rejections – Prior-Art

Claims 128 and 129 were rejected under 35 U.S.C. § 102 as anticipated by R. G. Dedo, U.S. patent 4,004,579. Applicants respectfully traverse this rejection.

In making this rejection, the examiner stated, "As to claims 128 and 129, Dedo discloses a device and inherently a method for CPR treating patients. . . ." The Dedo reference simply does not disclose a CPR device, and this statement concerning it is simply ill-founded and wrong.

Dedo relates only to a "Respiratory Assist Device" as its title clearly proclaims. It does not sit on the chest (as Applicants' claims now require). It does not and cannot perform CPR. Its purpose is to squeeze upward on the diaphragm to assist in exhalation. It can have no use in CPR. In fact, its location and use would interfere with CPR since it would cause a backflow of blood toward the heart, rather than inducing a natural blood flow. In fact, the use of Dedo's device may actually cause harm when CPR is indicated by compressing the xiphoid process at the tip of the sternum which can lacerate the liver or by maintaining

Serial No. 10/633,938

continuous pressure on the abdomen which can trap the liver and cause it to rupture⁵. For this reason, the rejection of the claims over Dedo should be withdrawn.

Claims 130 to 134 and 228 to 239 were rejected under 35 U.S.C. § 103(a) as obvious over Dedo in view of Barkalow et al. (U.S. patent 4,273,114). Applicants respectfully traverse this rejection.

As discussed immediately above and contrary to the examiner's assertions, Dedo simply does not show or suggest CPR under any circumstances. He has a device to aid in respiration, specifically exhalation or "expiration." The active device shown in Figures 2 to 7 of Dedo do not even encircle the patient. It also stays completely off the chest (where CPR must take place). Dedo's other component, the belt 46, has no active function. As stated in Dedo, column 4, lines 14 to 18:

The belt 46 may have suitable fastening means 48 on opposed ends 50 of the belt 46, such as hook and loop fastening strips 52 and 54, as shown, to releasably secure the belt 46 snugly around the patient *below the rib cage*. (Emphasis added.)

Thus, the expiration device of Dedo simply does not combine with the CPR device of Barkalow et al. Further, there is not reason or suggestion to combine the two references. Lastly, even were they combined, they would not produce Applicants' device. For all of these reasons, the rejection over the combination of Dedo with Barkalow et al. should be withdrawn.

Claims 145, 146, 152 to 156, 171, 172, 178 to 182, 198, 199, 205 to 209, and 212 were rejected under 35 U.S.C. § 103(a) as obvious over Dedo in view of Szpur (U.S. patent 5,407,418). Claims 147 to 151, 173 to 177, and 200 to 204 were rejected under 35 U.S.C. §

⁵ See items 3 and 7 on page 848 of *Standards for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiac Care (ECC)*, Supplement to the Journal of the American Medical Society, Vol. 227, No. 7, page 830

Serial No. 10/633,938

103(a) as obvious over Dedo in view of Szpur and further in view of Barkalow et al. Applicants respectfully traverse these rejections.

As discussed above, Dedo clearly does not show a CPR device. It specifically avoids placing any pressure on a patient's chest. Szpur shows a bag or cuff for increasing blood flow in extremities such as hands or feet. Again, these devices do not combine, have no reason or suggestion to combine, and even if combined, do not produce a CPR device or have CPR effect. In fact, Dedo specifically avoids placing his device in a region that would effect CPR, and the hands or feet location of Szpur cannot accomplish CPR. With the above in mind, there is similarly no basis, reason, or suggestion to combine Barkalow et al. with the combination of Dedo in view of Szpur. In fact, there is no reason to combine any two of these three references. And, any combination of these three references still cannot produce the CPR device of Applicants. Accordingly, these rejections should also be withdrawn.

Applicants believe that the above amendment and discussion have placed the present application in condition for allowance. They sincerely request this action. Should some minor impediment prevent this action, then the examiner is respectfully requested to contact Applicants' attorney at the telephone number given below. Hopefully, such a phone call will portend a substantial saving on the parts of the Patent and Trademark Office as well as Applicants.

Applicant encloses the form PTO-2038 of the undersigned attorney in the amount of \$230.00 for a two-month extension of the time for a small entity to respond to the January 28, 2008, Office action. Any required extension fee not paid for by the enclosed form PTO-2038 may be charged to Deposit Account 06-2135 of the undersigned attorney.

(1974), referenced above.

Serial No. 10/633,938

Respectfully submitted,



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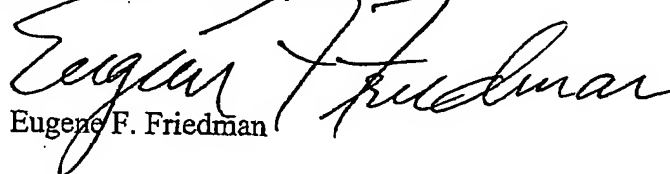
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CERTIFICATE OF FAXING

June 30, 2008

I certify that this correspondence is being faxed to the Commissioner for Patents at
phone numbers (571) 273-8300 and (571) 273-4979 on June 25, 2008.

(703) 308-9339



Eugene F. Friedman

Serial No. 10/633,938